

1 **FEDERAL ELECTION COMMISSION**  
2  
3 **FIRST GENERAL COUNSEL'S REPORT**  
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5 **RAD Referral: 18L-16**  
6 **DATE REFERRED:** March 26, 2018  
7 **DATE OF NOTIFICATION:** March 26, 2018  
8 **DATE OF ACTIVATION:** June 18, 2018  
9

10 **ELECTION CYCLE:** 2014  
11 **EXPIRATION OF SOL:**  
12 **Earliest:** January 1, 2019  
13 **Latest:** January 31, 2020  
14

15 **SOURCES:** Internally Generated  
16 **RESPONDENTS:** Democratic Executive Committee of Florida and  
17 Francesca Menes in her official capacity as  
18 treasurer  
19  
20 **RELEVANT STATUTES AND**  
21 **REGULATIONS:** 52 U.S.C. § 30104(b)(1), (2)  
22 11 C.F.R. § 104.3(a), (a)(1)  
23  
24 **INTERNAL REPORTS CHECKED:** Disclosure Reports  
25 Reports Analysis Division Referral Materials  
26  
26 **FEDERAL AGENCIES CHECKED:** None

27 **I. INTRODUCTION**

28 The Reports Analysis Division ("RAD") referred the Democratic Executive Committee  
29 of Florida and Francesca Menes in her official capacity as treasurer ("DECF" or the  
30 "Committee") to the Office of General Counsel for disclosing a cash-on-hand discrepancy of  
31 \$155,789.90 on its 2014 February Monthly Report and additional receipts totaling \$114,168.85  
32 on its 2014 Year-End Report.<sup>1</sup> For the reasons set forth below, we recommend that the

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<sup>1</sup> RAD Referral, Democratic Executive Committee of Florida (Mar. 26, 2018) ("Referral"), incorporated herein by reference. According to the Cover Memorandum to the Referral, the cash-on-hand discrepancy disclosed on the Committee's Amended 2014 February Monthly Report meets the threshold for referral to the Office of General Counsel. See Cover Memorandum to Referral at 1. The additional receipts disclosed on the Committee's Amended 2014 Year-End Report are referable to the Alternative Dispute Resolution Office ("ADRO") but are

1 Commission open a MUR and find reason to believe that the Committee violated 52 U.S.C.  
2 § 30104(b)(1) and (2) by failing to accurately disclose its cash-on-hand and receipts.  
3 Additionally, we recommend that the Commission authorize pre-probable conciliation with the  
4 Committee and approve the attached conciliation agreement.

5 **II. FACTUAL BACKGROUND**

6 The Committee is a state party committee of the Democratic Party.<sup>2</sup> On August 14,  
7 2014, the Committee filed an Amended 2013 Year-End Report disclosing an ending cash-on-  
8 hand balance of \$108,308.06,<sup>3</sup> and on the following day, the Committee filed an Amended 2014  
9 February Monthly Report disclosing a beginning cash-on-hand balance of the same amount.<sup>4</sup>  
10 More than three years later, on October 10, 2017, the Committee again amended its 2014  
11 February Monthly Report, disclosing a beginning cash-on-hand balance of \$264,097.96,  
12 resulting in a cash-on-hand discrepancy of \$155,789.90.<sup>5</sup> The Committee included a memo text  
13 that stated: "The committee has undertaken a comprehensive review of financial activity for the  
14 calendar years 2014 through 2017. As a result, the committee is filing comprehensive  
15 amendments to all reports during this period."<sup>6</sup>

included in this Referral in accordance with the Referral Procedures to limit unnecessary duplication of matters. *Id.*  
at 1-2.

<sup>2</sup> See Amended Statement of Organization, DECF (Dec. 1, 2016).

<sup>3</sup> Referral at 2.

<sup>4</sup> *Id.* The Committee's original 2013 Year-End Report disclosed a cash-on-hand balance of \$53,308.06 at the  
end of the reporting period, and its original 2014 February Monthly Report disclosed the same amount as the  
Committee's beginning cash-on-hand. Referral at 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

On January 31, 2015, the Committee filed its original 2014 Year-End Report.<sup>7</sup> The report disclosed \$85,467.00 on Line 18(a) (Transfers from Non-Federal Account) of the Detailed Summary Page.<sup>8</sup> Nearly three years later, on October 20, 2017, the Committee filed an Amended 2014 Year-End Report, disclosing \$199,645.85 on Line 18(a), an increase in receipts of \$114,168.85.<sup>9</sup>

On December 13, 2017, RAD sent the Committee two Requests for Additional Information ("RFAs") seeking clarification regarding the cash-on-hand discrepancy disclosed on the Amended 2014 February Monthly Report and the substantial increase in receipts disclosed on the Amended 2014 Year-End Report.<sup>10</sup> The Committee did not respond to either RFA. On February 8, 2018, RAD informed the Committee that the cash-on-hand discrepancy and increased activity would be referred for possible further action.<sup>11</sup>

### III. LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104.<sup>12</sup> These reports must include, *inter alia*, the total amount of receipts, including the appropriate itemizations, where required, and its cash-on-hand.<sup>13</sup> The Committee

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<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 2-3; RFAI, Amended 2014 Year-End Report, DECF (Dec. 13, 2017) (providing a response due date of January 17, 2018); RFAI, Amended 2014 February Monthly Report, DECF (Dec. 13, 2017) (same).

<sup>11</sup> *Id.* at 3.

<sup>12</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

<sup>13</sup> *See* 52 U.S.C. § 30104(b)(2); 11 C.F.R. § 104.3(a).

1 did not comply with the Act's reporting requirements when it disclosed a cash-on-hand  
2 discrepancy of \$155,789.90 and failed to disclose \$114,168.85 in additional receipts.

3 The Committee responds that it conducted an internal audit covering 2014 to 2018 after  
4 determining that the "currently disclosed cash on hand did not properly reflect actual cash on  
5 hand."<sup>14</sup> During the internal audit, the Committee discovered a cash-on-hand discrepancy of  
6 \$155,789.90 as of January 1, 2014, which the Committee disclosed on its Second Amended 2014  
7 February Monthly Report, which it filed on October 10, 2017.<sup>15</sup> Although the Committee  
8 believes that the discrepancy is likely the result of reporting errors made before January 1, 2014,  
9 it chose not to go further back in time due to its limited time and resources and the five-year  
10 statute of limitations.<sup>16</sup>

11 The Committee further states that the additional \$114,168.85 in receipts disclosed on the  
12 Amended 2014 Year-End Report were originally reported as received on September 30, 2014.<sup>17</sup>  
13 During the internal audit, the Committee determined that the transfer resulting in the receipts  
14 actually occurred on December 3, 2014, and amended its reports by moving the transfer from the  
15 2014 October Monthly Report to the 2014 Year-End Report.<sup>18</sup>

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<sup>14</sup> DECF Resp. at 1 (May 14, 2018) ("Resp.").

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 1-2.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.* The Committee states that September 30, 2014, was the date the transfer was supposed to occur. *Id.* Although the transfer was reported on the 2014 October Monthly Report, the Committee did not simply move the transfer from one report to another. The Committee also substantially modified its description of the transfer, changing, *inter alia*, the portion designated as "Total Administrative" from \$9,122.62 to \$113,317.67 and listing an entirely different activity and amount under "Direct Fundraising." Compare 2014 October Monthly Report at 376, DECF (Oct. 20, 2014) with Amended 2014 Year-End Report at 213, DECF (Oct. 20, 2017).

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<sup>20</sup> MUR 7026 (DECF) (RAD referral involving failure to disclose certain receipts for the 2013-2014 election cycle); MUR 6923 (DECF) (RAD referral involving failure to disclose certain receipts and disbursements in 2010 and 2011, encompassing the 2009-2010 and 2011-2012 election cycles).

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5   **V.   RECOMMENDATIONS**

6       1.    Open a MUR;


UNCLASSIFIED


2. Find reason to believe that Democratic Executive Committee of Florida and Francesca Menes in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(1) and (2);
3. Approve the attached Factual and Legal Analysis;
4. Authorize pre-probable cause conciliation with Democratic Executive Committee of Florida and Francesca Menes in her official capacity as treasurer;
5. Approve the attached Conciliation Agreement; and
6. Approve the appropriate letter.

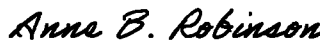
Lisa J. Stevenson  
Acting General Counsel

Kathleen M. Guith  
Associate General Counsel for Enforcement

8.2.18  
DATE

  
Stephen Gura  
Deputy Associate General Counsel for Enforcement

  
Mark Allen  
Assistant General Counsel

  
Anne B. Robinson  
Attorney

Attachments:

1. Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 RESPONDENTS: Democratic Executive Committee of Florida MUR \_\_\_\_\_  
6 and Francesca Menes in her official  
7 capacity as treasurer

8 **I. INTRODUCTION**

9 This matter was generated based on information ascertained by the Federal Election  
10 Commission (the "Commission") in the normal course of carrying out its supervisory  
11 responsibilities, *see* 52 U.S.C. § 30109(a)(2). The Reports Analysis Division ("RAD") referred  
12 the Democratic Executive Committee of Florida and Francesca Menes in her official capacity as  
13 treasurer ("DECF" or the "Committee") to the Office of General Counsel for disclosing a cash-  
14 on-hand discrepancy of \$155,789.90 on its 2014 February Monthly Report and additional  
15 receipts totaling \$114,168.85 on its 2014 Year-End Report.<sup>1</sup> For the reasons set forth below, the  
16 Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(1) and (2)  
17 by failing to accurately disclose its cash-on-hand and receipts.

18 **II. FACTUAL BACKGROUND**

19 The Committee is a state party committee of the Democratic Party.<sup>2</sup> On August 14,  
20 2014, the Committee filed an Amended 2013 Year-End Report disclosing an ending cash-on-  
21 hand balance of \$108,308.06,<sup>3</sup> and on the following day, the Committee filed an Amended 2014

<sup>1</sup> RAD Referral, Democratic Executive Committee of Florida (Mar. 26, 2018) ("Referral"), incorporated herein by reference.

<sup>2</sup> *See* Amended Statement of Organization, DECF (Dec. 1, 2016).

<sup>3</sup> Referral at 2.



1 February Monthly Report disclosing a beginning cash-on-hand balance of the same amount.<sup>4</sup>  
2 More than three years later, on October 10, 2017, the Committee again amended its 2014  
3 February Monthly Report, disclosing a beginning cash-on-hand balance of \$264,097.96,  
4 resulting in a cash-on-hand discrepancy of \$155,789.90.<sup>5</sup> The Committee included a memo text  
5 that stated: "The committee has undertaken a comprehensive review of financial activity for the  
6 calendar years 2014 through 2017. As a result, the committee is filing comprehensive  
7 amendments to all reports during this period."<sup>6</sup>

8 On January 31, 2015, the Committee filed its original 2014 Year-End Report.<sup>7</sup> The  
9 report disclosed \$85,467.00 on Line 18(a) (Transfers from Non-Federal Account) of the Detailed  
10 Summary Page.<sup>8</sup> Nearly three years later, on October 20, 2017, the Committee filed an  
11 Amended 2014 Year-End Report, disclosing \$199,645.85 on Line 18(a) (Transfers from Non-  
12 Federal Account), an increase in receipts of \$114,168.85.<sup>9</sup>

13 On December 13, 2017, RAD sent the Committee two Requests for Additional  
14 Information ("RFAs") seeking clarification regarding the cash-on-hand discrepancy disclosed  
15 on the Amended 2014 February Monthly Report and the substantial increase in receipts disclosed

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<sup>4</sup> *Id.* The Committee's original 2013 Year-End Report disclosed a cash-on-hand balance of \$53,308.06 at the end of the reporting period, and its original 2014 February Monthly Report disclosed the same amount as the Committee's beginning cash-on-hand. Referral at 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

1 on the Amended 2014 Year-End Report.<sup>10</sup> The Committee did not respond to either RFAI. On  
2 February 8, 2018, RAD informed the Committee that the cash-on-hand discrepancy and  
3 increased activity would be referred for further action.<sup>11</sup>

### 4 III. LEGAL ANALYSIS

5 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee  
6 treasurers to file reports of receipts and disbursements in accordance with the provisions of  
7 52 U.S.C. § 30104.<sup>12</sup> These reports must include, *inter alia*, the total amount of receipts,  
8 including the appropriate itemizations, where required, and its cash-on-hand.<sup>13</sup> Here the  
9 Committee did not comply with the Act's reporting requirements when it disclosed a cash-on-  
10 hand discrepancy of \$155,789.90 and failed to disclose \$114,168.85 in increased activity.

11 The Committee responds that it conducted an internal audit covering 2014 to 2018 after  
12 determining that the "currently disclosed cash on hand did not properly reflect actual cash on  
13 hand."<sup>14</sup> During the internal audit, the Committee discovered a cash-on-hand discrepancy of  
14 \$155,789.90 as of January 1, 2014, which the Committee disclosed on its second Amended 2014  
15 February Monthly Report, which it filed on October 10, 2017.<sup>15</sup> Although the Committee  
16 believes that the discrepancy is likely the result of reporting errors made before January 1, 2014,

<sup>10</sup> *Id.* at 2-3; RFAI, Amended 2014 Year-End Report, DECF (Dec. 13, 2017) (providing a response due date of January 17, 2018); RFAI, Amended 2014 February Monthly Report, DECF (Dec. 13, 2017) (same).

<sup>11</sup> *Id.* at 3.

<sup>12</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

<sup>13</sup> *See* 52 U.S.C. § 30104(b)(2); 11 C.F.R. § 104.3(a).

<sup>14</sup> DECF Resp. at 1 (May 14, 2018) ("Resp.").

<sup>15</sup> *Id.*

1 it chose not to go farther back in time due to its limited time and resources and the five-year  
2 statute of limitations.<sup>16</sup>

3 The Committee further states that the additional \$114,168.85 in receipts disclosed on the  
4 Amended 2014 Year-End Report were originally reported as received on September 30, 2014.<sup>17</sup>  
5 During the internal audit, the Committee determined that the transfer resulting in the receipts  
6 actually occurred on December 3, 2014, and amended its reports by moving the transfer from the  
7 2014 October Monthly Report to the 2014 Year-End Report.<sup>18</sup>

8 The Committee contends that it spent \$70,000 to conduct the internal audit, and therefore,  
9 the Commission should take no action or assign this matter to ADRO.<sup>19</sup> However, this matter  
10 was appropriately referred to OGC, the Committee acknowledges its reporting errors, and it  
11 signed conciliation agreements in 2015 and 2016 resolving similar increased activity  
12 violations.<sup>20</sup> Accordingly, the Commission finds reason to believe that the Committee violated  
13 52 U.S.C. § 30104(b)(1) and (2).

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<sup>16</sup> *Id.* at 1-2.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.* The Committee states that September 30, 2014 was the date the transfer was intended to occur. *Id.* Although the transfer was reported on the 2014 October Monthly Report, the Committee did not simply move the transfer from one report to another. The Committee also substantially modified its description of the transfer, changing, *inter alia*, the portion designated as "Total Administrative" from \$9,122.62 to \$113,317.67 and listing an entirely different activity and amount under "Direct Fundraising." Compare 2014 October Monthly Report at 376, DECF (Oct. 20, 2014) with Amended 2014 Year-End Report at 213, DECF (Oct. 20, 2017).

<sup>19</sup> Resp. at 1-2.

<sup>20</sup> MUR 7026 (DECF) (RAD referral involving failure to disclose certain receipts for the 2013-2014 election cycle); MUR 6923 (DECF) (RAD referral involving failure to disclose certain receipts and disbursements in 2010 and 2011, encompassing the 2009-2010 and 2011-2012 election cycles).